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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 SABELITA HAWKINS,

11 Plaintiff,

12 v.

13 UNITED STATES OF AMERICA,
14 et al.,

15 Defendants.

CASE NO. C16-0498JLR

ORDER GRANTING
STIPULATED MOTION

16 **I. INTRODUCTION**

17 Before the court is Plaintiff Sabelita Hawkins and Defendants United States of
18 America, Department of Veterans Affairs, and VA Puget Sound Health Care System's
19 (collectively, "Defendants") stipulated motion to extend the discovery cut-off in this
20 matter for approximately thirty days. (Stip. Mot. (Dkt. # 14) at 2.) The court GRANTS
21 the parties' stipulated motion and extends the discovery cut-off to June 20, 2017.

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II. BACKGROUND & ANALYSIS

Plaintiff Sabelita Hawkins filed this lawsuit on April 6, 2016. (*See* Compl. (Dkt. # 1).) In their joint status report, the parties represented that the case would be ready for trial on August 21, 2017, and proposed a discovery cut-off 120 days before trial. (JSR (Dkt. # 7) at 2, 4.) In its scheduling order, the court set trial to begin on September 25, 2017, the dispositive motions deadline on June 27, 2017, and the discovery cut-off on May 30, 2017. (Sched. Order (Dkt. # 8) at 1.) On March 17, 2017, the court granted the parties' stipulated motion to extend the deadline for the disclosure of expert testimony. (3/17/17 Order (Dkt. # 12) at 3-4.)

On May 19, 2017, Ms. Hawkins's counsel contacted the court to request a conference regarding a discovery issue. (5/19/17 Order (Dkt. # 13) at 1.) The court ordered the parties to file brief statements describing the nature of the discovery issue and set a telephonic hearing for May 23, 2017. (*See id.* at 1-2.) In lieu of filing statements regarding the discovery issue, the parties filed a stipulated motion in which they seek an approximately 30-day extension of the discovery cut-off. (Stip. Mot. at 2.) Due to the stipulation, the court struck the telephonic hearing. (*See* 5/23/17 Min. Entry.)

Pursuant to Federal Rule of Civil Procedure 16(b)(4), "[a] schedule may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). The Rule 16 "good cause" standard focuses on the diligence of the party seeking to modify the pretrial scheduling order. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607-08 (9th Cir. 1992). Parties must "diligently attempt to adhere to that schedule throughout the subsequent course of the litigation." *Jackson v. Laureate, Inc.*, 186

1 F.R.D. 605, 607 (E.D. Cal. 1999); *see Marcum v. Zimmer*, 163 F.R.D. 250, 254 (S.D. W.
2 Va. 1995). In part, the “good cause” standard requires the parties to demonstrate “the
3 development of matters which could not have been reasonably foreseen or anticipated at
4 the time of the Rule 16 scheduling conference.” *Jackson*, 186 F.R.D. at 608. Further, the
5 court’s scheduling order states that the dates are “firm” and that “[t]he court will alter
6 these dates only upon good cause shown.” (Sched. Order at 2.) The scheduling order
7 also states that “failure to complete discovery within the time allowed is not recognized
8 as good cause.” (*Id.*)

9 The parties seek to continue the discovery cut-off by approximately one month.
10 (See Stip. Mot. at 2.) They contend that good cause exists for extending the cut-off
11 because the parties have been unable to locate a particular doctor and the extra time
12 would allow the parties to locate and depose that doctor. (*Id.*) The court, however,
13 generally sets the discovery cut-off 30 days prior to the deadline for filing dispositive
14 motions and motions challenging expert testimony to ensure that the record is complete
15 when the court considers such motions. For that reason, the court finds good cause to
16 extend the parties’ discovery cut-off only to June 20, 2017, instead of the full 30 days the
17 parties request. The earlier date will allow the parties additional time to locate the doctor
18 at issue, but ensure that the record is complete when the parties’ dispositive motions are
19 due on June 27, 2017. (See Sched. Order at 1.)

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Dated this 24th day of May, 2017.

JAMES L. ROBERT
United States District Judge